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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,788	08/01/2003	Paul C. Wacker	H0005416 (1161.1128101)	5829

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EXAMINER

TANNER, HARRY B

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,788

Applicant(s)

WACKER, PAUL C.

Examiner

Harry B. Tanner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/15/2003.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9 and 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Pittman. Pittman discloses a method and system for controlling a HVAC system having a heating unit and a cooling unit in which the heating and cooling units are both operated if the room temperature is below the set point temperature and the humidity is above the humidity set point (see blocks 80, 88 and 90 of Figure 3) and only the cooling unit is operated if the room temperature is above the set point temperature regardless of the humidity in the room (see blocks 80 and 82 of Figure 3).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

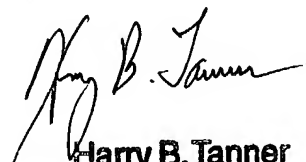
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pittman as applied to claim 1 above, and further in view of Official Notice. Official Notice is taken that the use of computers to control HVAC systems were conventional at the time the invention was made. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system

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of Pittman such that it included the use of a computer to control the heating and cooling units wherein the control program would inherently be stored on computer-readable medium.

Claims 4 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pittman as applied to claim 1 above, and further in view of Alford. Alford teaches the use of multiple stages of cooling in which heating and cooling units are operated together if only the first stage cooling is required and the humidity is above the humidity set point (see blocks 210, 216, 218, 220 and 222 of Figure 6) and only the cooling units are operated if second or more stages of cooling are required regardless of the humidity in the room (see blocks 210, 220 and 224 of Figure 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Pittman such that it included the use of multiple stages of cooling in which heating and cooling units are operated together if only the first stage cooling is required and the humidity is above the humidity set point and only the cooling units are operated if second or more stages of cooling are required regardless of the humidity in the room in view of the teachings of Alford.



Harry B. Tanner
Primary Examiner

Harry Tanner
April 2, 2004
703-308-2622